

PHYLENCIA GREEN and husband, ROY GREEN, Plaintiffs v. ESAU ROOSEVELT DIXON and J.M.X., Incorporated, Defendants and Third-Party Plaintiffs v. ANTOINETTE PADILLA TOLER, STATE OF NORTH CAROLINA *ex rel* NCDOT, REA CONSTRUCTION COMPANY, and PROTECTION SERVICES, INC., Third-Party Defendants

No. 207A00

(Filed 6 October 2000)

No Headnotes.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 137 N.C. App. 305, 528 S.E.2d 51 (2000), affirming in part and reversing and remanding in part an order for summary judgment signed 24 November 1998 by Hobgood, J., in Superior Court, Vance County. Calendared for argument in the Supreme Court 11 September 2000; determined on the briefs without oral argument.

*McDaniel, Anderson & Stephenson, L.L.P., by John M. Kirby and William E. Anderson, for third-party plaintiff-appellants.*

*Yates, McLamb & Weyher, L.L.P., by Rodney E. Pettey, for third-party defendant-appellee Rea Construction Company; and Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., by James D. Blount, Jr., and Deanna Davis Anderson, for third-party defendant-appellee Protection Services, Inc.*

PER CURIAM.

AFFIRMED.